

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 2151 of 2005
To
FIRST APPEAL No. 2168 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
HON'BLE MR.JUSTICE M.C.PATEL

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?
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LAND ACQUISITION OFFICER - Appellant(s)
Versus
JADABEN KESURBHAI PATEL & 1 - Defendant(s)

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Appearance :

MR AD OZA, GOVERNMENT PLEADER for Appellant No(s).: 1.
MR TRILOK J PATEL for Respondent No(s).: 1.
None for Respondent No(s).: 1 - 1,2.

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CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE M.C.PATEL

Date : 04/08/2005

COMMON ORAL JUDGMENT (Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

All these appeals are admitted. Learned counsel Shri Patel waives service for the respondents - claimants

in all these appeals. On the joint request of the learned counsel for the parties, all these appeals are taken up for final disposal and disposed of by this common order as they arise out of the impugned common judgment and award dated 30th November, 2002 passed by the 5th Joint Civil Judge (S.D.), Vadodara in Land Reference Cases No. 165 to 182 of 1983 whereby the learned Judge allowed all the reference cases with proportionate cost and awarded other statutory benefits to the claimants.

2. In the instant cases, lands of respondents - claimants were acquired for the purpose of construction of Narmada Canal which are situated at village Nimeta of Taluka Waghodia, District Vadodara. The Notification under Section 4 of the Land Acquisition Act (for short, 'the Act') was issued on 18th June, 1981 followed by Section 6 Notification dated 11th February, 1982. On 24th August, 1983, the Special Land Acquisition Officer passed his award and awarded 70 paise and 80 paise per sq. mtr. to the respective claimants against their demand of Rs.15/- per sq. mtr. Thus, he awarded at the rate of Rs.7,000/- and Rs.8,000/- per hectare. Aggrieved and dissatisfied with the said award, the respondents - claimants approached the Reference Court by way of Land

Reference Case Nos.165 to 182 of 1983 wherein they restricted their claim to Rs.10/- per sq. mtr. i.e. Rs.10,000/- per hectare.

3. Before the Reference Court, Shri Thakorbhai Kesurbhai Patel - claimant of Land Reference Case No.172 of 1983 was examined at Exh.22 who stated in his evidence that their lands were fertile and potential. They were irrigating their lands by waste water of Nimeta filter plant as per panchnama (Exh.25) prepared by the Talati. They were taking crops of cotton, paddy, tuver, hybrid juvar etc. as per Exh.23. They were taking two crops in a year. Their gross annual income was Rs.5,000/-, Rs.2,640/-, Rs.2,100/-, Rs.5,400/- and Rs.2,800/- per bigha out of the agricultural produce. The learned Reference Court, after deducting 50% income from the gross income of the claimants came to the conclusion that the claimants would be getting Rs.2,500/- for cotton, Rs.1,320/- + Rs.1,050/- for paddy and wheat, Rs.2,700/- for juvar and Rs.1,400/- for tuver per bigha. The total comes to Rs.8,970/-. Applying multiplier of 10, the learned Judge was of the opinion that the net annual income would come to Rs.89,700/- per bigha which comes to Rs.3,94,680/- per hectare. However, the learned Judge

put up the round figure of Rs.4,00,000/- per hectare and dividing it by four crops, he came to the conclusion that it would be Rs.1,00,000/- per hectare i.e. Rs.10/- per sq. mtr. Thus, he awarded Rs.10/- per sq. mtr. and fully allowed the reference cases filed by the claimants.

4. Learned Government Pleader Shri Oza for the appellant and learned counsel Shri Patel appearing for the respondents - claimants in all these appeals took us through the entire evidence, oral as well as documentary, led before the Reference Court. On the basis of oral as well as documentary evidence on the record of the case, learned Government Pleader Shri Oza submitted that in any case, it could not have been more than Rs.7/- per sq. mtr. as it was an acquisition of 1980. He also submitted that the learned Judge has accepted the evidence of Shri Thakorbhai Kesurbhai Patel even though there was no authentic documentary evidence produced by the claimants in support of their case regarding the annual income. He also submitted that the learned Judge has also not taken into consideration uncertainties of rain etc.

4.1 As against that, learned counsel Shri Patel for the respondents - claimants submitted that now Nimeta village

is included in Vadodara Urban Development Authority. However, considering all the relevant aspects of the case and the evidence on record and the fact that the claim of the claimants before the Land Acquisition Officer was Rs.15/- per sq. mtr. which was reduced to Rs.10/- per sq. mtr. before the Reference Court, Mr. Patel submitted that they would be satisfied if the total amount awarded to the claimants is not less than Rs.7/- per sq. mtr. provided the said amount is paid to them at the earliest as after acquiring their lands, they have not been paid for all these 25 years.

5. Having heard the learned counsel for the parties and having carefully gone through the impugned common judgment and award passed by the Reference Court as well as the evidence on record produced by the learned counsel for the parties, we are of the considered opinion that in the instant case, the respondents - claimants would be entitled to Rs.7/- per sq. mtr. and not, in all, Rs.10/- per sq. mtr. awarded by the Reference Court. It may be stated that while reducing the amount, we have refrained ourselves from giving detailed reasons, as requested by the learned counsel for the parties. Accordingly, all these appeals are partly allowed and the impugned

judgment and award passed by the Reference Court awarding total amount of Rs.10/- per sq. mtr. is modified and it is reduced to Rs.7/- per sq. mtr., in all. Rest of the award passed by the Reference Court is maintained. The appellant shall now deposit the remaining amount before the Reference Court before 31st October, 2005.

(B.J. Shethna, J.)

(M.C. Patel, J.)

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